



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2015-0751; FRL-9939-64-Region 9]

Revisions to the California State Implementation Plan, San  
Joaquin Valley Unified Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). This revision concerns volatile organic compound (VOC), oxides of nitrogen (NO<sub>x</sub>), and particulate matter (PM) emissions from internal combustion engines. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATE:** Any comments must arrive by [**Insert date 30 days after the date of publication in the Federal Register**].

**ADDRESSES:** Submit comments, identified by docket number [EPA-

R09-OAR-2015-0751, by one of the following methods:

1. *Federal eRulemaking Portal*: [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
2. *E-mail*: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
3. *Mail or deliver*: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions*: Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. If you need to include CBI as part of your comment, please visit <http://www.epa.gov/dockets/comments.html> for further instructions. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. For the full EPA public comment policy and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

*Docket*: Generally, documents in the docket for this action are available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy

at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov), some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Nicole Law, EPA Region IX, (415) 947-4126, [Law.Nicole@epa.gov](mailto:Law.Nicole@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

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**I. The State's Submittal.**

A. *What rule did the State submit?*

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

Table 1 - Submitted Rule

Local Agency	Rule #	Rule Title	Adopted	Submitted
SJVUAPCD	4702	Internal Combustion Engines	11/14/13	05/13/14

On July 18, 2014, EPA determined that the submittal for SJVUAPCD Rule 4702 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. *Are there other versions of this rule?*

We approved an earlier version of Rule 4702 into the SIP on

January 10, 2008 (73 FR 1819). The SJVUAPCD adopted revisions to the SIP-approved version on November 14, 2013 and CARB submitted them to us on May 13, 2014. While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

*C. What is the purpose of the submitted rule revisions?*

VOCs and NO<sub>x</sub> help produce ground-level ozone and smog, which harm human health and the environment. PM contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control emissions of VOC, NO<sub>x</sub>, and PM, among other pollutants.

The primary changes to Rule 4702 include expanding the applicability of the rule, establishing lower NO<sub>x</sub> limits for spark-ignited non-Agricultural Operation (non-AO) IC engines, and adding a fee compliance option. EPA's technical support document (TSD) contains more information about this rule.

**II. EPA's Evaluation and Proposed Action.**

*A. How is EPA evaluating the rule?*

Generally, SIP rules must be enforceable (see CAA section

110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(1)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Guidance and policy documents that we use to evaluate pollution control requirements, rule enforceability, and SIP revisions under CAA section 110 include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NOx

Supplement), 57 FR 55620, November 25, 1992.

5. "Alternative Control Techniques Document- NO<sub>x</sub> Emissions from Stationary Reciprocating Internal Combustion Engines," EPA-453/R-93-032, July 1993.
6. "Determination of Reasonable Available Control Technology and Best Available Retrofit Control Technology for Stationary Spark-Ignited Internal Combustion Engines," CARB, November 2011.
7. "Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency," September 23, 1987.

In ozone nonattainment areas classified as moderate or above, all major stationary sources of NO<sub>x</sub> or VOCs must be subject to Reasonably Available Control Technology (RACT) (see sections 182(b)(2) and 182(f)). The SJVUAPCD regulates an ozone nonattainment area classified as extreme nonattainment for the 1-hour, 1997 8-hour, and 2008 8-hour ozone NAAQS (see 40 CFR 81.305).

Additionally, moderate PM<sub>2.5</sub> nonattainment areas must implement Reasonably Available Control Measures (RACM), including Reasonably Available Control Technology (RACT) (see CAA sections 172(c)(1) and 189(a)(1)(C)), and serious PM<sub>2.5</sub> nonattainment areas must implement Best Available Control

Measures (BACM), including Best Available Control Technology (BACT) (see CAA section 189(b)(1)(B)). The SJVUAPCD regulates a PM<sub>2.5</sub> nonattainment area classified as serious nonattainment for the 1997 PM<sub>2.5</sub> NAAQS and moderate nonattainment for the 2006 and 2012 PM<sub>2.5</sub> NAAQS. Therefore, we are evaluating this rule for compliance with both RACT and BACT requirements for NO<sub>x</sub> control.

B. *Does the rule meet the evaluation criteria?*

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, RACT, BACT, and SIP revisions. Although the new NO<sub>x</sub> emission limits for spark-ignited IC engines used in non-agricultural operations in Table 2 of the revised rule are not enforceable because of the option to pay fees in lieu of compliance with the limits (section 5.2.2.2), the rule clearly requires that all engines in the fee program comply with the applicable limits in Table 1 of the rule (section 5.2.2.2.1), which are identical to the control requirements in the SIP-approved version of Rule 4702. Based on our evaluation of the control requirements in the rule and related support documents in the SIP submission, we propose to determine that Rule 4702 implements BACT for NO<sub>x</sub> emissions from stationary internal combustion engines operating in the SJV. The TSD has more information on our evaluation.

C. *EPA recommendations to further improve the rule.*

The TSD describes additional rule revisions that we recommend for the next time SJVUAPCD modifies the rule but are not currently the basis for rule disapproval.

E. *Public comment and proposed action.*

As authorized in section 110(k)(3) of the Act, EPA is proposing to fully approve the submitted rule based on our conclusion that the rule satisfies all applicable CAA requirements. We will accept comments from the public on this proposal until **[Insert date 30 days after date of publication in the Federal Register]**.

**III. Incorporation by Reference.**

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the SJVUAPCD rule as described in Table 1 of this notice. The EPA has made, and will continue to make, these documents available electronically through [www.regulations.gov](http://www.regulations.gov) and in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

**IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In

those areas of Indian country, the rule will not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

**AUTHORITY:** 42 U.S.C. 7401 *et seq.*

Dated: November 12, 2015.      Jared Blumenfeld,  
Regional Administrator,  
Region IX.

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